अगर वे उस समय भी विरोधकरते कि नहीं धारा 356 को हम स्वीकार नहीं करेंगे, गुजरात में हम स्वीकार नहीं करेंगे, तो मैं आपका आदर करता और अगर डी.एम.के. के नेता कह रहे हैं कि हमने उस समय भी विरोध किया, मुझे ध्यान नहीं है, लेकिन अगर आपने विरोध किया था तो मैं आपका आदर करता हूं । धारा 356 का सिद्धांतत: विरोध करना मेरी समझ में आता है लेकिन दलगत दृष्टिकोण से विरोध या समर्थन करना मेरी समझ में नहीं आता है और मैं कह सकता हूं कि चाहे गुजरात हो या बिहार हो, इस सरकार ने दलगत भावना से प्रेरित होकर कोई निर्णय नहीं किया । अलबत्ता हम ससंद की सर्वेपरिता को मानते हैं, स्वीकार करते हैं और मुझे यह कहने में कोई संकोच नहीं कि जिस दिन हमने वह निर्णय किया, बिहार के संदर्भ में, उस दिन सबसे बड़े विपक्ष की तरफ से यह बयान न आया होता कि इस सरकार को कोई नैतिक अधिकार भी नहीं है वहां पर बने रहने का, शायद हम ऐसा नहीं मानते कि यह परिणाम निकलेगा । तो यह बात भी उसमें एक हिस्सा है । आपको जिन लोगों का दर्द है वह तो मैं जानता हूं । जहां तक गोवा का सवाल है, मैं समझता हूं कि एक साधारण और एक अपूर्व स्थिति वहां पर पैदा हुई जिसका निराकरण करने का हमारे पास कोई चारा नहीं था ।

I may tell Mr. Biplab Dasgupta that the responsibility of exploring the alternatives is not that of the Central Government; it is that of the Governor. The DMK leader has rightly read out that particular provision and he has said that if I explore the other, alternatives, nothing is going to come out of it except greater instability. Therefore, I have come to the conclusion that article 356 be used. Furthermore, he has said that out of 40 MLAs, 36 MLAs are for dissolution of the Assembly and fresh elections.

मैं इतना ही कह सकता हू कि ससंद द्वारा इसको पुष्टि मिलने के बाद हमारी इच्छा होगी कि चुनाव जल्दी से जल्दी हो । चाहे उसके लिए नवंबर तक समय है लेकिन चुनाव संबंधी सभी प्रक्रियाएं पूरी हो जाएं तो उसके बाद जल्दी से जल्दी वहां पर चुनाव हो जाएंयह केन्द्र सरकार चाहेगी । अब इसे इम्प्लीमेंट करने का काम चुनाव आयोग पर हम छोडेंगे । इन शब्दों के साथ मैं पुन: आपसे अनुरोध करता हूं कि सर्वसम्मति से इसे पारित किया जाए ।

THE DEPUTY CHAIRMAN: I shall now put the statutory Resolution to vote. The question is:

"That this House approves the Proclamation issued by the President on the 10th February, 1999 under article 356 of the Constitution, in relation to the State of Goa."

The. motion was adopted.

THE FINANCE (NO. 2) AMENDMENT BILL, 1999

THE DEPUTY CHAIRMAN: We shall now take up the Finance (No. 2) Amendment Bill, 1999.

SHRI JOHN F. FERNANDES (Goa): Madam, before the Minister moves the Bill, I want to say something on this. *(Interruptions)* Madam, I have a technical point to raise, this Financial Memorandum was struck down by the hon. High Court of Delhi on 17th November, 1998. The winter session commenced on 28th November, 1998. So, the Government had enough time to come before the Parliament and get it amended. The Government did not prefer to go in appeal to the hon. Supreme Court. The Government waited for one month, till 31st December, 1998, to issue an Ordinance. So, I do not know what the explanation is that the hon. Minister is going to give. Are they going to rule this country through Ordinances?

Secondly, this Memorandum was struck down by the hon. Delhi High Court on the ground of violation of fundamental rights under article 14 of the Constitution. When they bring such a legislation, do they not go to the Legal Department? Can the hon. Minister explain why this was not brought during the winter session?

DR. BIPLAB DASGUPTA (West Bengal): What is the objective of this Bill?

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF FINANCE (BANKING REVENUE AND INSURANCE) (SHRI KADAMBUR M.R. JANARTHANAN): Madam Deputy Chairperson, the hon. High Court delivered the Judgement on 17th November, 1998 and following that judgement the benefits of the scheme have to be extended to such cases where the Department is in litigation. So many representations had come and the Parliament was not in session. *(Interruptions)...*

SHRI JOHN F. FERNANDES: The Parliament was in session till 23rd of December. *(Interruptions)...*

SHRI KADAMBUR M.R. JANARTHANAN : The scheme was till 31.12.1998.

SHRI JOHN F. FERNANDES: That is what I am saying, hon. Minister. The Parliament was in session from 28th November.

What I was saying was that you should have come before the Parliament to amend it and not to issue an Ordinance. *(Interruptions)...*

SHRI KADAMBUR M. R. JANARTHANAN: The Finance Minister had himself informed the Parliament that as the Parliament was not in session and the amendment to the provisions of the Finance Act were to be carried out immediately as the last date of the scheme was 31.12.1998, the Finance (Amendment) Ordinance (No. 92) was promulgated by the President. *(Interruptions)...*

SHRI JOHN F. FERNANDES: Madam, my point is very limited.

THE DEPUTY CHAIRMAN: I understood it. I will explain it. Let me put the things in a chronological order. When did the High Court of Delhi strike it down?

Okay, the date is 17th November. Then, Mr. Fernandes is raising the issue that the House was in Session. The Winter Session started in November, and after that the High Court Judgement came. If the Government was not planning to go to the Supreme Court for a stay, then why did the Government not bring me same Bill before the House during the Winter Session? Why was it done through an Ordinance? This is the simple question.

SHRI KADAMBUR M. R. JANARTHANAN: It has created two artificial classes in the same class of assessees, that is, the litigation and the arrears. Then only, after the judgement, the benefit of the scheme can be extended to the cases where trie department is in litigation.

THE DEPUTY CHAIRMAN: I have not followed that. The simple question is this. You gave the reasons why you could not come before the Winter Session. But, why are you coming in the Budget Session? Let me put it this way.

SHRI KADAMBUR M. R. JANARTHANAN: The High Court order was received by the Department only at the end of November.

THE DEPUTY CHAIRMAN: Now, what does 'end' mean? There must be some date. Is it the end of November, or, 8th of November?

SHRI KADAMBUR M. R. JANARTHANAN: It is the end of November.

THE DEPUTY CHAIRMAN: I want to know the date. When we work in Parliament, we work according to dates, and not whether the Session started earlier or later.

SHRI KADAMBUR M. R. JANARTHANAN: It was received by the end of November. It took time, therefore, we are not able to ...*(Interruptions)*

THE DEPUTY CHAIRMAN: Ask your officers to give you the correct date so that I can settle the matter. Was it the 16th, 20th or 15th?

SHRI JOHN F. FERNANDES: Madam, he can inform the House later on. As the Finance Minister is not here, he can inform the House later. We would not object to it. Since it is a Finance Bill, we have to return it also. There should be some explanation from the Government.

SHRI GURUDAS DAS GUPTA (West Bengal): Madam, May I ask one thing? I believe the Minister has not been properly briefed.. .*(Interruptions}*..

THE DEPUTY CHAIRMAN: You are not a Minister. *(Interruptions).* Okay, the matter is solved.

SHRI KADAMBUR M. R. JANARTHANAN: This judgement was accepted by the Central Government and the instructions were issued to the income-Tax authorities to comply with the judgement of hon. High Court through the Department. And the scheme could be issued only in the month of December, 1998, being the last month of operation of the scheme. Besides, a large number of representations were received from various quarters, including trade associations, professionsl bodies and chambers, etc., requesting the Central Government to extend the period up to which the scheme should be in opration to enable them to take the benefit of the scheme. In view of the circumstances mentioned in the foregoing para, the Central Government decided to extend the period of operation of the scheme by a month i.e. 31st December, 1998 to January, 1999. Further, as it existed before the Proclamation of the said Ordinance, the period of 60 days was allowed to the designated authorities to determine the sum payable under the scheme, and a further period of 30 days was allowed to the assessees from the date of such determination for making payment.

THE DEPUTY CHAIRMAN: Mr. Minister, we are not doubting your competence of bringing it. Not at all..... *(Interruptions)* Please do not disturb the Minister. Let him understand. *(Interruptions)...* I think he is confused.

SHRI KADAMBUR M. R. JANARTHAHAN: No, no. I am not confused..

THE DEUPTY CHAIRMAN: He is not confused. His colleague is confusing him.

SHRI KADAMBUR M. R. JANARTHANAN: Madam, the actual date is the end of November. The delay was due to the Law Ministry, but everything is done.

THE DEPUTY CHAIRMAN: Now, I think, Mr. Jethmalani has got himself apprised of the correct situation about the dates of the court judgement. Then, he may comment in the House.

THE MINISTER OF URBAN AFFRAIS AND EMPLOYMENT (SHRI RAM JETHMALANI): Madam, the Government decide to accept the Delhi High Court judgement on the 15th of December, 1998. That was the formal decision taken on that day.

THE DEPUTY CHAIRMAN: What is the date?

SHRI RAM JETHMALANI: On 15th December, 1998. The ordinance was issued on the 31st of December, 1998. On both the days the Parliament was not in session.

SHRI JOHN F. FERNANDES: Madam, on 23rd December, the Parliament was in Session. *(Interruptions).*

SHRI RAM JETHMALANI: Madam, the High Court delivered the judgement on the 17th of November. First the judgement has to reach the Government and then the Government must apply its mind. Then the copies have to be certified. Ultimately, on the 15th of December, the Government formally decide to accept the judgement as correct and not to appeal.

SHRI JOHN F. FERNANDES: Madam, the Parliament was in Session from 15th December to 23rd December. That is no justification.

THE DEPUTY CHAIRMAN: The House was still in Session *(Interruptions).* Just a minute.

SHRI GURDAS DAS GUPTA: Madam.. .*(Interruptions).*

THE DEPUTY CHAIRMAN: Mr. Gupta, just a minute. Let me finish. This is not a very healthy habit to cut the words of the Chair. Let me react to it.

SHRI RAM JETHMALANI: Madam, you wanted to know the factual position. I have communicated the factual position to you. Whether legal consequences flow, it is between the Minister and you.

THE DEPUTY CHAIRMAN: Not between the Minister and me; it is between the Minister and the Members. I have to put the viewpoints of the Members and explanation of the Minister properly. I am very happy that you have got the dates ascertained and informed the House. Mr Fernandes's complaint is—anyway, the Government took a long time to decide whether they should accept it or go to the Supreme Court; whatever was the reason—while the Winter Session was on, the Government could have brought the legislation and could have avoided the Ordinance. That is the point.

SHRI JOHN F. FERNANDES: Madam, I am satisfied. Actually, this Government wants to run through Ordinances. Let them do it.

SHRI GURDAS DAS GUPTA: Madam, I am on a different point

THE DEPUTY CHAIRMAN: What is your point?

SHRI GURUDAS DAS GUPTA: Madam, this is improper that this House was not taken into confidence when it was still in Session. There was enough time. But this House was not taken into confidence by the Government. Of course, it has become a part of the functioning of the Governement. But that is not the main issue. There is one more thing. Madam, they have brought this Ordinance before the House for ratification after the Budget has been presented. That is very important. The normal course before the Government was that they should have included this proposal in the Budget itself. Had it been included in the Budget proposals, this Ordinance would not have been require to be ratified. The Ordinance could have lapsed. The Budget proposals could have been a Comprehensive one.

SHRI M. VENKAIAH NAIDU (Karnataka): There was a gap.

SHRI GURUDAS DAS GUPTA: I can understand that there was a gap and to cover up the gap, this Ordinance was necessary. But why have you brought the Ordinance for approval? If it was considered to be a part of the Budget, it could have been a part of the comprehensive financial package of the Govemement. Then you would not have eaten up the time of the House. The time of the House is being wasted unnecessarily. We could have voted upon this proposal as a part of the Budget. What was the need for it? The Ordinance itself would have lapsed. The Government has allowed many Ordinances to lapse on a number of occasions. Why are they wasting the time of the House unnecessarily when there is a time constraint? Let the hon. Minister explain why it could not have been made a part of the Budget proposals.

THE DEPUTY CHAIRMAN: I don't want to torture the Minister any more.

SHRI M. VENKAIAH NAIDU: Madam, the Lok Sabha has approved it.

SHRI GURUDAS DAS GUPTA: It is inappropriate. It is quite inappropriate on the part of the Government. There is a lack a management.

SHRI R.K. KUMAR (Tamil Nadu): What the hon. Member has said is right. The 'Kar Vivad Samadhan Scheme was introduced by the Finance Act of 1998. That is being sought to be amended now. This is the Finance. (No. 2) Amendment Bill, 1999. The Government thought that as the scheme was introduced by the Finalce Act, 1998, it requires amendment.

SHRI GURUDAS DAS GUPTA: No, it does not. The Ordinance could have taken care of the verdict of the Delhi High Court. If it was a part of the Budget proposals, a separate discussion on this would not have been necessary.

THE DEPUTY CHAIRMAN: Now, we are not discussing what should have been there or what should not have there. Let us discuss what is there now.

SHRI NARENDRA MOHAN (Uttar Pradesh): Madam, the last Session was over on 23rd December and then the Ordinance was issued. It is clear from the statement that besides the High Court judgement, whatever it was, there were a large number of representations from various quarters including trade associations, professional bodies, chambers etc., for extending the period for which the scheme should be in operation.... *(Interruptions)*

SHRI JOHN F. FERNANDES: Madam, we want a clarification from the Government ....*(Interruptions)* This is not the correct reply ....*(Interruptions)* Let the Government reply or else let them keep quiet. We are not pressing it...

THE DEPUTY CHAIRMAN: Just a minute. The Member wanted a clarification. Some kind of a clarification is being given. I am not saying whether it is right or wrong on the part of the Government. It is the member's suggestion. There are different views. Mr. Gurudas Das Gupta said that it could be included in the Budget, and another Member *says. .(Interruptions)*

SHRI JOHN F. FERNANDES: This year's Budget is for the next financial year.

THE DEPUTY CHAIRMAN: Whatever be the explanation, let us go ahead. Now, Mr. Minister, you speak.

SHRI KADAMBUR M. R. JANARTHANAN: Madam, Deputy Chairman,

I rise to move:

> "That the Bill to amend the Finance (No. 2) Act, 1998, as passed by Lok Sabha, be taken into consideration."

Madam, the Bill seeks to replace the Finance (No. 2) Ordinance, 1998, without any modification. The Karvivad Samadhan Scheme, 1998, was introduced by the Finance (No. 2) Act, 1998, and it came into operation on 1st September, 1998. The scheme sought to realise the arrears of taxes, under both the Direct Taxes and Indirect Taxes Enactment, and also to reduce the pending litigation. As per the original provision, the assessees were required to file a declaration on or before 31st December, 1998. For uniform inplementation of the .scheme, a large number of clarifications had to be issued. The scope of the scheme was

also broadened by the judgement of the hon. High Court of Delhi. The Government accepted the above judgement in the second half of November, 1998, and necessary instructions could be issued to the designated authority only by November, which was the last month of the operation of the Scheme. Considering the above and also considering the large number of representations received in this regard, the last date for filing the declaration under the scheme was extended by one month, namely, till 31st January, 1999 through promulgation of an ordinance. The period for determining the taxes payable was reduced from sixty days to thirty days so as to ensure collection of taxes within the current financial year.

Madam, I move the Bill with the request that the same be considered and returned. Thank you.

The Question was Proposed.

THE DEPUTY CHAIRMAN: Now, I have three names at the moment. Dr. Biplab Dasgupta. I think we had quite a lot of clarifications even before we took it up for discussion. Is there anything more to be added?

DR. BIPLAB DASGUPTA: I have a lot to say.

THE DEPUTY CHAIRMAN: Anyway, you have only four minutes. You don't speak more than that.

DR. BIPLAB DASGUPTA: Madam, this particular amendment has become necessary because the High Court had not allowed in a particular case, and certain questions were raised about the assessees and so on. Now it would have been quite easy for the Government, after issuing an ordinance, to allow it to lapse, meaning that as long as the ordinance is there, it has the effect of the law. The effect of the law could have been used, but there was no need for bringing in the law. That is one aspect of it. But the objective of it is this. The Karvivad Samadhan Scheme itself is like the Voluntary Disclosure of Income Scheme which was there in the previous year's Budget. It is very much like that, even though it is not mentioned that way. What it means is that, if there are some outstanding liabilities, some outstanding payments, then the Government will look into these, examine these, find out what is true and what is not true and then find a solution, in consultation with the assessee. In effect, it is very much like the Voluntary Disclosure Scheme (VDS). But the VDS fetched something like eight thousand crores of rupees. As far as I understand, the Samadhan scheme has not been that productive. In both these cases, whether it is the VDS or the Samadhan, the objectives is to appease the black money holder. The whole objective is that you should somehow find ways of appeasing those people who have avoided the payment of taxes and who have evaded the taxes, so that they come and pay you a part of the money of which have cheated the Income-tax authorities. That is the objective of the VDS. I am strongly opposed to the very principle underlying the Samadhan scheme because it is grossly unfair for the Government not to use its Police power and its legal power to realise what is due but to allow discussions and negotiations with an assessee and then allow him to get away with all the defrauding that he has done on the exchequer. On principle, I am opposed to it. But 1 would like to know from the hon. Minister how much has been yielded by the Samadhan scheme so far. If I understand it rightly, the Samadhan scheme has been a great failure. Here again, leaving aside the question of morality, this scheme cannot be repeated again and again. The VDS has been more successful because it was something done for the first time. When you repeat it the next year more or less in the same format, it cannot be the same.

SHRI M. VENKAIAH NAIDU: Madam, I appreciate that my friend, Biplabdas, is at least frank enough to admit that both the schemes are one and the same—the Voluntary Disclosure Scheme and the Kar Vivad Samadhan scheme. If the Samadhan scheme is for tax evaders and black money holders, then the VDS is also for the same people. Isn't it?

DR. BIPLAB DASGUPTA: Yes.

SHRI M. VENKAIAH NAIDU: Thank you.

DR. BIPLAB DASGUPTA: Don't take it like this because we opposed the VDS when it was proposed by the United Front Government. We did not support it. If you look

at our Budget statement, we did not like the way it was being proposed. We put our protest in the court when this was being discussed. So, we have been very consistent. We opposed it when it was proposed by Mr. Chidambaram. We opposed the Samadhan scheme, when it was proposed by Shri Yashwant Sinha. So, we had opposed it, whether it was the United Front Government or the BJP Government, because this was in the sense cheating the people and cheating the exchequer. That is why we opposed it.

But my point is that it is not only that it is yielding less, but it is also now putting the country in a situation where rather than trying to find other sources of raising revenue which we will discuss during the Budget debate—the Government is not realising this money through the legal machinery and the Police. Unfortunately, the Government is not interested in using the legal machinery for realising this amount. Even this ten thousand crores of rupees, which was raised by the VDS, was a very small part of the total amount of black money. I am not talking of the stock of black money. The stock of black money is enormous. It is not possible to realise all the black money that has already been spent. But I am talking of the flow of black money, the black money which is generated every year; that also far exceeds the ten thousand crores of rupees. It may be forty thousand fifty thousand, eighty thousand or one lakh crores of rupees. The estimates vary. But there is much more than ten thousand crores of rupees. So, even when you express your happiness that Rs. 10,000 crores have been realised, that is a small fraction of the amount which is being concealed from the Income-tax authorities. I would request the Government to not to legitimise the defrauding of the exchequer and to actually dessist from bringing in such laws to appease the tax evaders. It should actually take stern legal action so that those people are forced to comply with the law, rather than getting appeased by the Government.

SHRI JOHN F. FERNANDES: Madam, in fact, I did not want to intervene since the hon. Finance Minister said that this Bill had not been debated in the Lok Sabha. I do not even want to raise in objection at the outset. But I just want an explanation as to who at fault is. Is it the Minister or is it the officials? Whoever it is, they should be reprimanded and hauld up so that they do not take the Parliament very lightly.

Madam, now coming to this note supplied by the Government, we have seen that it is a habit with the Government to create more and more litigations so that the assessee can benefit. Legal loopholes are being allowed to creep in this order. These are executive orders. These are not legislations passed by the hon. Parliament. The hon. High Court has struk it down. Initially, I also asked a question of the Finance Minister, why they don't vet it with the Law Ministry. The executive orders are issued by the Finance Ministry. Why should it not be routed through the Law Ministry? Why should scope be created even to violate the Fundamental Rights? Here the court has struck it down on the ground that it is violative of the Fundamental Right of Equality, article 14. This will only give a scope to tax-evaders to further manipulate. Therefore, I think it will be appropriate for the Government to see that such executive orders because you get the Bills passed by the Parliament; the details don't come to us are properly drafted. There are the executive orders and directives issued by you. Of course, you sign on the dotted lines. The officers give it to you, and you sign on the dotted lines, So, the interest of the Government is not taken into consideration. The hon. High Court has rightly mentioned that you have created two classes because the assessee has gone against the Government in litigation, and the Government has also gone in litigation against the assessee. You have created a class. So, in future, whenever you come before Parliament, I think it will be appropriate for this Government or any Government to see that proper legal precautions are taken.

Madam, we also have the Debt Recovery Tribunals set up by the Government to recover the debts due to the banks, owed to the banks. The Government again has not taken any legal precaution there. As a matter of fact, the hon. Supreme Court has stayed it, and the Government cannot mop up revenue of thousands of crores of rupees. Whenever you have black money, you can engage the top

advocates of the country. The advocates have gone in litigation before the hon. High Courts of many States and the Supreme Court that it is encroaching upon their jurisdiction, that the power of the Debt Recovery Tribunals should have been vested with the courts. So, when the Government comes with a legislation, why it should come with a foolproof legislation, going through the legal channels. I don't know whether the Finance Ministry has a legal cell within the Finance Ministry. If not, I think, whoever gives these instructions, the Government should haul him up. *Faux pas* has already been created by passing Parliament in the Winter Session. This is the humble request of mine before the Government. I don't want to go into the details, and nitty-gritty and merits and demerits because it is already approved by Parliament in last year's Budget.

श्री राघवजी (मध्य प्रदेश) : उपसभापति जी, यह कहा गया है कि यह ओर्डिनेन्स लाने में त्रुटि हुई है, वास्तव में कोई त्रुटि इसमें नहीं है । जो कर विवाद समाधान योजना, पिछले बजट में लाई गई थी, उसके लिए पूरा कानून तैयार होकर और दोनों सदनों में यह पारित भी हुई, लेकिन बाद में करदाताओं से मांग उठी , कोर्ट का भी जजमेंट हुआ । मांग यह ठीक कि जो अंतिम तिथि फोर्म जमा करने की। है, आवेदन देने की है, उसकी तिथि 21 दिसम्बर से बढ़ाकर 31 दिसम्बर की जाए । पार्लियामेंट सेशन में 28 दिसम्बर तक था और निर्णय 31 दिसम्बर को हुआ । 31 दिसम्बर को आर्डिनेंस जारी हुआ क्योंकि आर्डिनेंस के अलावा ओर कोई रास्ता नहीं था । अगर एक महीना उसके लिए बढ़ाना है, तो आर्डिनेंस जारी करना आवश्क था, इसलिए आर्डिनेंस जारी किया । 31 जनवरी, यह जनता की मांग को लेकर किया गया, कोर्ट के जजमेंट के आधार पर किया गया । इस बीच में उस वक्त, जिस वक्त यह जारी किया गया था, उस वक्त.....

बात कहने दो ।

SHRI JOHN F. FERNANDES: Madam, how can the hon. Member have so much information which the Government is not having? The hon. Member can speak on the subject. He should not clarify on behalf of the Government.

श्री राघवजी : नहीं, मैं अपनी बात कह सकता हूं गवर्नमेंट को जो करना है गवर्नमेंट करेगी । मुझे अपनी

SHRI JOHN F. FERNANDES: Unless you have access to the administration, how can you justify it? ....*(Interruptions)*....

श्री राघवजी : यह बिल्कुल न्यायोचित था और सही भी था क्योंकि यह जो तारीख बढ़ाई गई है, इसके लिए सारे जितने करदाता थे, जितने टैक्स असेंसीज थे उनकी और से मांग थी कि इसमें तारीख बढ़ाई जानी चाहिये और तारीख बढ़ाने की गुजाइंश भी थी क्योकि रेवेन्यु जो कलेक्ट होनी थी वह 31 मार्च तक ही होनी थी । पहले 60 दिन में देना था इसमे उसकी जगह 30 दिन कर दिया गया । इसलिए इसमें कोई अंतर नहीं आया । आज 31 दिसम्बर को जो यह जारी किय गया यह बिल्कुल सही था और कानून तथा वैधानिक दृष्टि से इसमें किसी तरह की त्रुटि नहीं है ।

बिप्लव दास जी ने यह बात कही है कि बी.डी.आई. एस. की जो स्कीम थी, और ये दोनों स्कीमें, यह काला बाजार को प्रोत्साहन देने के लिए है । मैं इस बात को स्वीकार नहीं करता हूं। बीडीआईएस जो स्कीम थी, वह माननीय चिदम्बरम साहब जब वित्त मंत्री थे, तब लाई गई थी । उस सरकार को माननीय विप्लव दासजी समर्थन दे रहे थे और स समय यह लाया गया था । उसके आने के बाद अगर यह योजना लाई गई तो इस योजना का सीधा संबंध उससे नहीं है । इस कर विवाद समाधान स्कीम में यह व्यवस्था की गई थी कि अगर कोई मामला न्यायालय में विचाराधीन है, ये मामले लम्बे समय तक चलते ही रहते हैं क्योंकि आस कर में तीन स्टेजेज होती है । पहले अपील होती है, उसके बाद ट्राइब्यूनल में अपील होती है और फिर हाई कोर्ट में जाता है । मामला लडते लड़ते 15-20 साल बीत जाते हैं । इसलिए यह व्यवस्था की गई है कि अगर बीच में कोई समझौता करना चाहिए तो समझौता कर सकता है और जितना उस पर टैक्स लगाया गया है, अगर उसका भुगतान नहीं हुआ है तो उसका 50 परसेंट, जुर्माना ब्याज आदि जोड़कर, उसका 50 परसेंट जमा करने से उसको मुक्ति मिल जाती है । वरना यह देखने में आया है कि अधिकांश मामलों, तीन चौथाई मामलों में सरकार हारती है और एक चौथाई मामलों में ही सरकार जीतती है । इस तरह से सरकार को रेवेन्यु का नुकसान उठाना पड़ता है इससे कम से कम यह लाभ तो हुआ है कि 950 करोड़ रूपया आय कर में जमा हुआ और 850 करोड़ रूपया एक्साइड मे जमा हुआ । कुल मिलाकर सरकारी खजाने में 1800 करोड़ रूपये का लाभ हुआ । अतः यह जो बिल यहां पर प्रस्तुत किया गया है इसका मैं समर्थन करता हूं । धन्यवाद ।

SHRI R.K. KUMAR: Madam, I rise to 'support this amendment Bill.

THE DEPUTY CHAIRMAN: You are a party to it.

SHRI R.K. KUMAR: No, I was not a party. I did not last that long. This Bill seeks to amend Finance (No. 2) Act, 1998. That answers the question as to why it was not brought through the Budget of 1999-2000. Madam, I respectfully disagree with Dr. Biplab Dasgupta who said that the Voluntary Disclosure Scheme and Kar Vivad Samadhan are one and the same. While the VDIS related to unknown incomes and unknown assets, which were not known to the department, the Kar Vivad Samadhan relates to known income and known assets. The dispute is about the legal taxability of that. Before the VDIS, the Government did not know whether such and such people had hidden income or hidden asset, whether it is in a *benami* name. Whereas here, when an assessment has taken place, the assessee is disputing it. When the assessee disputes it, he can go to the first appeal, as Ragavji said, to the Commissioner of Appeals. If it is pending, he was given the benefit under the Kar Vivad Samadhan Scheme. Assuming there is another assessee, who has won his case before the Commissioner of Appeals, that is, the first appeal; the department had gone on appeal to the Tribunal; while that was pending, that assessee did not have the benefit of this scheme. That is what the High Court has said, that there is discrimination; The entire scheme was not struck down. While an assessee, whose appeal is pending, has the benefit of settlement, those assessees, whom the department has taken, in a second appeal, to the Tribunal, did not have the benefit of settlement under the scheme. This is what the Delhi High Court has observed, that it was discriminatory and asked the department to give them the chance. Since this scheme was up to 31st December, 1998, this was to be extended. Under the original scheme, to sixty days for payment of tax, from the date of filing of the declaration was available. When you extend it for once more month with time for payment upto sixty days; it would have been extended upto March 31st. So, the time was reduced, for payment of tax, after filing the declaration, in respect of those declarations made after 31st December, up to 28th February, 1999, i.e. it was reduced to 30 days.

Madam, my point on the substantive portion is this. I take this opportunity to point out two or three things. When the scheme was brought, it was said that Rs. 55,000 crores were locked up in litigation, both direct and indirect taxes. What has the scheme brought? Probably my friend is right to say that this scheme has failed. It has brought only Rs. 2000 crores out of which Rs. 1000 crores have been collected. Shri Raghavji has given the correct figure Rs. 958.50 crores, and the maximum is Rs. 2,000 crores. So, we are still locked up with more than Rs. 50,000 crores of disputed tax. It is interesting to know that the Income Tax Department with such a big paraphernalia, do you know how much has it collected? Madam, out of Rs. 100, Rs. 94 come from your pocket, or mine or his by voluntary compliance by our paying advance tax by deducting tax at source, by paying tax under 140A by self-assessment along with the return. In the 94 per cent of the tax collected the Department has no effort. The balance six per cent is only assessed and collected. And in that assessment there is this situation of Rs. 50,000 crores disputed. It is because of this high-pitched assessment and unnecessary paper demand is created. People are cultivated to err on the right side iFIKT ^T STRII f, ^n^I ^f ^11 Make high pitched paper demand pending. Then you go in for an appeal in the second appellate tribunal. It will be interesting to know that the pendency is five years. If I file an appeal before the appellate tribunal today, it will come up for the first hearing after five years. Then why would there not be more than Rs. 50,000 crores be in arrears? I know that there are some administrative problems. The Income Tax Tribunal comes under the Law Ministry. The Tax Department comes under the Department of Revenue, the Ministry of Finance. They have no control over the Income Tax Appellate Tribunal. They cannot force anything. They cannot expedite things. Then my suggestion to the hon. Minister, to the Government, is there is a permanent settlement machinery in the shape of the Settlement Commission for Direct Taxes. They have introduced it for indirect taxes also. So, this machinery should be strengthened. The settlement of disputes should be expedited through this machinery so that the disputed tax arrears can be brought

down. I would like to say one more thing with regard to the implementation of this scheme. Madam, I read a report. It is very interesting to know that in Bombay one company wanted to settle its tax dispute of Rs. 100 crores. They would have paid Rs. 35 crores. What had happened is that in the earlier assessment year, there were certain refunds. Without proper intimation, they adjusted the refunds against this dispute and said that because there were no tax arrears, they could not file a declaration. Ultimately, if that company fils its appeal and if they get refund this tax, then why was the officer who has not accepted the declaration should not be taken to task? You say that you have certain refunds. You claim that you adjust them and because of such adjustment there are no arrears. Then you say "I would not accept your declaration." This is the last suggestion which I want to make. I want to once again say that the permanent machinery of Settlement Commission, which is functioning under the Department of Revenue, the Ministry of Finance, should be strengthened and wherever there are disputes, through that medium the tax arrears should be reduced. Thank you.

SHRI KADAMBUR M. R. JANARTHANAN: Madam, Deputy Chairman, I thank all the hon. Members who participated in the discussion on the Samadhan Scheme; without *samadhan* to some of the hon. Members, first of all, I would respond to the point made by hon. comrade. Madam, the VDIS and the Samadhan scheme, as has been pointed out by hon. Kumar, are totally different. The VDIS is a scheme for the black money accumulated over the ages by the big bosses of this country. Raja Chelldah in his note on black money, stated this in 1985-86. The Note was circulated to all the Members of Parliament. But, this Samadhan scheme is a scheme for creating a new area of *samadhan* of friendly nature between the tax-payers and the Government. This is the first aim of this Government. It has got some success which we cannot deny. Further our hon. comrade said that the VDIS was successful but *Samadhan* scheme is not successful.

The hon. former Finance Minister, Mr. Chidambaram, before becoming the Finance Minister, in a TV. interview, replying to the last question - what is the expected total amount of black money - said, "Approximately Rs. 70,000 crores." it is on record. After one year, before the Government crumbled, when Mr. Madhu Dandavate was the Deputy Chairman of the Planning Commission, he said before the media that the black money is Rs. 1 lakh crores. Therefore, the VDS was definitely not helped the Government in reducing the black money. As you said, it is only Rs. 10,000 crores. Even if you take 10 per cent of it, it comes to Rs. 1,000 crores. But, through the Samadhan Scheme, we have received Rs. 1,800 crores, as has been correctly mentioned by hon. Raghavji. If you look at the total, it comes to 9 per cent.

DR. BIPLAB DASGUPTA: What is the amount?

SHRI KADAMBUR M.R. JANARTHANAN: Total is 9 per cent. In your successful scheme, it was only 10 per cent. As per Mr. Chidambaram's definition, black money is cancer. This accounted money is not cancer. There is a large difference between black money and accounted money. The back money is spoiling our economy; the back money is creating inflation; the back money is creating an economic crisis. But this accounted money, which is under litigation and pending for ages, does not create any economic crisis. The BJP came to power only last year. But these litigations were there since so many years. Therefore, the Samadhan Scheme of this Government, on moral grounds, is a success of the BJP Government.

DR. BIPLAB DASGUPTA: What is the total amount? I am not talking about the percentage.

SHRI KADAMBUR M.R. JANARTHANAN: It is Rs. 950 crores on the CBDT side and Rs. 850 crores on the CBEC side. Mr. Fernandes, 1 am not a lawyer. I am a common man. I am not an auditor like Mr. Kumar ...*(Interruptions)*... I have to answer ...*(interruptions)*... Yes. He has answered correctly. The Delhi High Court had struck down only one part of the scheme which is relating to the departmental appeal. Only that part was struck down, but the other parts were upheld. The court said that the benefit should

go to the litigant. I hope the hon. Members will appreciate the Government's move on this. Further, I really thank Raghavji though I could not follow completely the translation. He spoke the way the Treasury Benches speak. Mr. Kumar also spoke like that. I would like to put it on record that black money is "Cancer money." It cannot be cured. But, this is a scheme through which we can cure our economy. This scheme can cure our economy. That VDS Scheme could not cure our economy. What for the VDS Scheme was used? It was used in relation to the property purchased in 1993, 94, etc. That back money was used by big bosses. The VDS might have been a well publisized scheme by you. This country has many poverty alleviation schemes. In the whole world, we are the only country who have got poverty alleviation schemes. Commrade, you know it. The VDS did not help in eliminating poverty. This scheme has created a very good atmosphere. Taxpayers are our brothers and there should not be any fight between the taxpayers and the Government. A friendly atmosphere has been created by this scheme. Therefore, I hope and request the hon. Members to make this Samadhan Scheme a successful scheme. Thank you.

THE DEPUTY CHAIRMAN: Unless and until they have tax-related disputes, they cannot make it a success.

SHRI M. VENKAIAH NAIDU: Madam, I have a point to make.

THE DEPUTY CHAIRMAN: You want to seek clarification after the Minister's reply! मंत्री जी, यह क्लेरीफिकेशन मांग रहे है, आप बैठिए ।

SHRI M. VENKAIAH NAIDU: Madam, I would like to know from the hon. Minister whether there is any proposal to further extend this scheme because, as it has been stated by Mr. Kumar, there is a lot of difference between the VDIS and the Kar Vivad Samadhan Scheme and despite our best efforts, as he said, Rs. 50,000, crores which is pending in litigation, is white money, money from known sources. We should see to it that prolonging this litigation for years is not good; as you know, the Government normally does not win any case. It is normally the other side which wins the case. The delay will cost the country. Even if it is Rs. 1850 crores or Rs. 1800 crores, it is a good amount. The response has been very good. Efforts have been made by you, but you have not been able to achieve it. In view of that, I am asking whether you are going to extend this scheme. Is there any such proposal, or, in view of the lack of adequate response, is there any way to further improve the scheme, keeping in view the experiences that we had? Is there any such proposal before the Government? Will the Government come forward with such a thing in future at least? I would like to be enlightened in this regard.

THE DEPUTY CHAIRMAN: Do you have any further.... *(Interruptions)*...

SHRI KADAMBUR M. R. JANARTHANAN: No, the scheme comes to an end on 31.1.99. The Government is not thinking of extending it.

THE DEPUTY CHAIRMAN: Mr. Kumar said that Rs. 50,000 crores is still pending, which could not be recovered under this scheme. Do you think that the Government is not accepting Mr. Kumar's suggestion for an expeditious settlement? Are you letting this amount of Rs. 50,000 crores to continue investigation? That is what Mr. Naidu was saying.

SHRI KADAMBUR M.R. JANARTHANAN: The Government will take all possible steps to dispose of the cases. The Kar-vivad Samadhan Scheme was extended, but it has created a ...*(Interruptions)*... We are taking all administrative steps. The Permanent Account Number Scheme is one of the Schemes to increase the income-tax base at the Centre. We are taking so many steps to bring in the money which is not coming. We will try to dispose of the cases. Of course, laws will be strictly implemented.

DR. BIPLAB DASGUPTA: Extending the time limit would defeat its purpose. I am not supporting it. But the objective was that you give a time limit so that there is a pressure on the assessee, who has gone to the court, to come running to the Government, expecting that he may probably settle the account at a lesser cost. But once you make it a permanent feature of the system, then the whole validity of the programme is lost. That is the point. But it is

my fear, as it happened in the past that this programme will again be appearing under different names. *(Interruptions)*

उपसभापति : इसी में आप भी कुछ एड कर रहे हैं? अब बहुत हो गया।...(**व्यवधान**)...

There is nothing in it. The money is not coming just now. So, let us forget it.

THE DEPUTY CHAIRMAN: The question is:

"That the Bill to amend the Finance (No. 2) Act, 1998, as passed by the Lok Sabha, be taken into consideration."

The Motion was adopted.

THE DEPUTY CHAIRMAN: We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 to 4 were added to the Bill.

Clause 1, the Enacting Formula, and the Title were added to the Bill.

SHRI KADAMBUR M.R. JANARTHANAN: Madam, I move:

"That the Bill be returned."

The Motion was adopted

THE SALARY, ALLOWANCES AND PENSION OF MEMBERS OF PARLIAMENT (AMENDMENT) BILL, 1999

THE DEPUTY CHAIRMAN: Now, it is Salary, Allowances and Pension of Members of Parliament (Amendment) Bill, 1999. Mr. Jethmalani, before you move the Bill, I have to tell you something. You see, there are two very mall amendments which have been proposed. One is to Clause 4 by Shri Lachhman Singhji. When we had this Bill before the House, by mistake or by oversight, it was not included the world "spouse/companion" should have been there. I think it was an oversight. That has to be amended. If somebody does not have a spouse, he can have a spice. The spice part of the Bill has to be put in. 1 am very happy that it is only the Rajya Sabha which always thinks of the spices. The Lok Sabha always forgets it. And the other amendment is by Shri Biplab Dasgupta. I think he is anti-spouse. He brought something which was again, by oversight, not included which should have been there. So, these amendments you be prepared to accept.

प्रो. विजय कुमार मल्होत्रा (दिल्ली) : यह पता तो लगे,लोकसभा ने क्या किया इनके बारे में ?

THE DEPUTY CHAIRMAN: <rfRRT*TT लोकसभा में तो भूल गए न , स्पाउसेंस को । ...(**व्यवधान**)...that we have to remind them to insert it back.

SHRI M VENKAIAH NAIDU (Karnataka): Whether it is a fact that the companion is already allowed?

THE DEPUTY CHAIRMAN: No, it is not. ...*(Interruptions)*...

SHRI N.THALAVAI SUNDARAM (Tamil Nadu): They are eligible. ...*(Interruptions)*...

THE DEPUTY CHAIRMAN: Two-tier AC is allowed for companion, but not first class. The spouse is allowed in first AC.

श्री रामजी लाल (हरियाणा) : स्पाउसेस का भी हुआ है, लोक सभा में।

प्रो. विजय कुमार मल्होत्रा : मैडम, इसकी पोजीशन यह है कि मैम्बर एसी पर्स्ट क्लास में चलता है और अगर एसी सेकेड क्लास में मैम्बर होगा तो कम्पेनियन भी, दोनों उसमें सफर कर सकते हैं। एसी फर्स्ट क्लास में अगर मैम्बर सफर करेगा तो कम्पेनियन सेकेंड क्लास एसी में सफर करेगा, मगर स्पाऊस जो हैं वह उसके साथ फर्स्ट क्लास एसी में सफर कर सकता है। उसका रीजन यह बताया गया कि नंबर इतना कम है एसी फर्स्ट क्लास में कि अगर हर कम्पोनियन को एसी फर्स्ट क्लास में जाने की इजाजत दीगई तो बहुत से मैंम्बर्स को जगह ही नहीं मिल पाएगी।

इसलिए इसमें स्पाऊस साथ हो तो बुरा लगता है अलग चले।...(**व्यवधान**)...

श्री लछमन सिंह (हरियाणा) : मैडम, ...(**व्यवधान**)...

उपसभापति : घबराइए नहीं, जो आपकी समस्या हैं उसका समाधार होगा।आप बैठिए। अभी आप बैठिए।

प्रो. विजय कुमार मल्होत्रा : इसीलिए उन्होंने स्पाऊस के लिए एसी पर्स्ट क्लास में किया था कि स्पाऊस एसी फर्स्ट क्लास में मैम्बर के साथ सफर करें और अगर कंपेनियन साथ में है तो सेकेंड एसी में सफर करे। यह कही कोई मिस्टेक से नहीं हुआ। यह उन्होंने डेलीब्रेटली, जानबूझ कर, सोच –समझ कर तय किया है। जहां तक ऐसा मेरा अंदाजा है। अब अगर यह लोक सभा में वापस